

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'A' BENCH,
NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER, AND
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 67/DEL/2025 [A.Y 2017-18]

ITA No. 68/DEL/2025 [A.Y 2018-19]

ITA No. 69/DEL/2025 [A.Y 2020-21]

Delhi Duty Free Service [P] Ltd
Aero Hub at Cargo City
First Floor, PAC, Near Cargo
Gate-5, IGI Airport, New Delhi

Vs.

The Dy. CI.T.
Central Circle - 13
New Delhi

PAN: AADCD 2518 C

(Appellant)

(Respondent)

Assessee By : Shri Ankit Agarwal, CA
Shri Ravinder Bans Singh, CA
Ms. Komal Goyal, CA

Department By : Shri Rajesh Mahajan, Sr. DR

Date of Hearing : 27.08.2025

Date of Pronouncement : 27.08.2025

ORDER

PER NAVEEN CHANDRA, AM :-

The above captioned three appeals by the Assessee are directed against three separate orders of the Id. CIT(A)-26, Delhi dated 04.11.2024 for A.Ys 2017-18, 2018-19 and 2020-21 respectively.

2. Since these three appeals pertain to same assessee and involve common issues, they were heard together and are disposed of by this common order for the sake of convenience and brevity, though the quantum may differ.

ITA No. 67 & 68/DEL/2025 [A.Ys 2017-18 and 2018-19]

3. The grievance of the Assessee read as under:

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the AO in not allowing the deduction claimed u/s 80G of the Income Tax Act, 1961 by holding that the CSR donation made are not eligible for deduction u/s. 80-G of the Income-tax Act, 1961.

2. The Ld. CIT(A) ought to have considered that the appellant Company has made the CSR expense to eligible entities registered under section 80G of the Act and thus is eligible to claim such deduction.

The appellant craves to leave, add, amend, alter and or modify any of the grounds of appeal before or at the time of hearing.

For these and other grounds that may be urged before the Hon'ble Income Tax Appellate Tribunal, it is prayed that the addition on account of disallowance U/s 80G is not sustainable under law and be deleted."

4. Briefly stated, the facts of the case are that the assessee company filed its Return of Income on 28.11.2017 declaring an income of Rs. 1,57,31,09,980/- in A.Y 2017-18 and on 27.11.2017 declaring an income of Rs. 176,18,27,590/- respectively. Return was selected for scrutiny assessment through CASS and accordingly, statutory notices were issued and served on the assessee.

5. During the course of scrutiny assessment proceedings in A.Y 2017-18, the Assessing Officer noticed that the assessee has expense on CSR of Rs. 1,90,20,000/-. This amount was added back to the total income of the assessee. The assessee further claimed deduction u/s 80G of the Income-tax Act, 1961 [the Act, for short] of Rs. 95,10,000/- out of the expenses of CSR and donations. This claim of deduction of Rs. 95,10,000/- u/s 80G of the Act was disallowed on account of the fact that where the CSR expense is mandatory in nature under section 135 of the Company Act, whereas donations are to be treated as voluntary in nature u/s 80G of the Act.

6. Aggrieved, the assessee went in appeal before the Id. CIT(A) who rejected the claim of the assessee on the ground that the assessee has not claimed the expenditure as donation u/s 80G of the Act and

therefore, CSR cannot be directed to be treated as donation u/s 80G of the Act.

7. Now the further aggrieved assessee is in appeal before us.

8. Before us, both the rival representatives reiterated what has been stated before the lower authorities. The ld AR relied on the various decisions of Tribunal as presented before the CIT(A), particularly the case of *InterGlobe Technology Quotient P Ltd V ACIT* (2024) 163 taxmann.com 542(Del-Tri) and stated that even if such a disallowance were to be made as CSR, deduction u/s 80G of the Act is to be allowed.

9. Per contra, the ld. DR vehemently relied on the orders of the AO and the CIT(A).

10. We have heard the rival submissions and have perused the relevant material on record. We find that the issue of CSR to be allowed under section 80G has been covered in favour of the assessee by the order of the various co-ordinate Delhi bench as relied upon by the assessee. There are however, certain conditions enumerated in section 80G of the Act which are to be fulfilled before deduction are claimed. The co-ordinate Delhi bench in ITA No. 5643/DEL/2010 order dated 22.04.2019, in the case of *Max New York Life Insurance Company* for A.Y 2006-07 has captured the conditions and held as under:

"41. The 2nd additional ground is with respect to the claim of deduction u/s 80G of the income tax act with respect to the donation disallowed in the hands of the assessee. As the donation expenditure has been disallowed in the hands of the assessee and added to the total income of the assessee naturally, the assessee is entitled to deduction under Chapter VI-A of the income tax act with respect to the donation u/s 80G of the act. As the requisite details as required by that section has not been furnished before us we direct the assessee to furnish the relevant information before the assessing officer in accordance with the law to claim any deduction under section 80G of the income tax act along with all donation receipts and the 80G certificates issued by the Donee to the assessee within one month of this order. The learned assessing officer may verify the detail in accordance with the law and if found proper, may grant the deduction. Accordingly, the 2nd additional ground of the appeal of the assessee is allowed with above direction."

11. In view of the fact that deduction u/s 80G is dependent on meeting certain criteria as provided in law, we set aside the issue of claim of CSR expense to be considered for deduction u/s 80G, to the file of the Assessing Officer, with the direction that as the requisite details as required by section 80G has not been furnished before us, the assessee shall furnish the relevant information before the AO to claim for

deduction under section 80G of the Income Tax Act along with all donation receipts and the 80G certificates issued by the Donee to the assessee. The Assessing Officer shall verify the detail in accordance with the law and if found proper, shall allow the CSR expense for deduction u/s 80G. We accordingly allow the ground Nos 1 and 2 with the above directions.

14. In the result, the appeal of the assessee is partly allowed.

ITA No. 69/DEL/2025 [A.Y 2020-21]

15. The grounds raised by the assessee read as under:

Disallowance u/s 80G

"1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the action of the AO in not allowing the deduction claimed u/s 80G of the Income Tax Act, 1961 by holding that the CSR donation made are not eligible for deduction u/s. 80-G of the Income-tax Act, 1961.

2. The Ld. CIT(A) ought to have considered that the appellant Company has made the CSR expense to eligible entities registered under section 80G of the Act and thus is eligible to claim such deduction.

3. The learned authority erred in concluding that the appellant Company is ineligible to claim the deduction u/s 80G since the Company has paid taxes u/s 115BAA of the Income Tax Act, 1961 without appreciating the fact that for the relevant assessment

year, deductions falling under heading, "C-Deductions in respect of certain incomes" of chapter VI-A only are ineligible for the purpose of Section 115BAA which does not cover deduction claimed u/s 80G.

Disallowance u/s 36(1) (va) on account of delay in payment of employees contribution of PF & ESI:

1. On the facts and in the circumstances of the case, the Ld. CIT(A) erred in not adjudicating the ground raised against the erroneous action of the learned AO in disallowing an amount of Rs. 28,41,392/- u/s 36(1)(va) of the Income Tax Act, without considering that the due date of remittance was a public holiday and the appellant Company had remitted the amount on the next day before the due date of filing the return of income.
2. The learned AO ought to have considered the fact that the appellant Company had remitted the amount on the next day. before the due date of filing the return of income.
3. The learned AO ought to have considered the fact that the amendment brought in by the Finance Act, 2021 with respect to Sec. 36(1) (va) have a prospective effect and no disallowance shall be made for the previous years.

Disallowance of Rs. 19,992/- on account of difference of income between books and 26AS:

1. The Learned AO ought to have considered the fact that the Company has not claimed any TDS against the customer in its return

of Income as the same not appearing in 26AS as on date of filing Income-tax return.

2. The Learned AO ought to have considered the fact that mere difference between amount appearing 26AS vis-à-vis amount claimed the Assessee doesn't amount to short declaration unless the Assessing Officer has evidence to prove that the said income is belonging to the assessee but not offered to tax."

16. Ground Nos. 1 and 2 of ground I are pari-materia identical to those discussed and decided by us hereinabove while deciding Ground No. 1 to 2 in A.Y 2017-18 and 2018-19. Respectfully following the same, we partly allow the grounds with same directions.

17. With respect to Ground I (3), in respect of AY 2020-21, the Id AR stated that the Ld. AO has also disallowed deduction of CSR donations u/s. 80G on the ground that as the Appellant has opted for Section 115BAA (new tax regime) it is not eligible for claiming deductions under Chapter VI-A. The Id AR submitted that for AY 2020-21, an Appellant opting for Section 115BAA was not entitled to claim deduction "under any provision of Chapter-VIA under the heading "C.-Deductions in respect of certain incomes" other than the provisions of section 80JJAA". Thus, the Appellant was entitled to claim deduction u/s. 80G as it does

not fall under heading "C.-Deductions in respect of certain incomes" of Chapter - VIA.

18. The Id AR further submitted that subsequently, section 115BAA was amended vide Finance Act, 2020 w.e.f. AY 2021-22 and the words "under the heading "C- Deductions in respect of certain incomes"" were deleted and the provisions "under any provisions of Chapter VI A other than the provisions of section 80JJAA or section 80M" was added. The Id AR submitted that from AY 2021-22, the Act prohibited the claim deduction u/s. 80G w.e.f. AY 2021-22 for domestic companies paying taxes at rate of 22%. It is the say of the Id AR that for AY 2020-21 the assessee was entitled to claim deduction u/s. 80G.

19. The Id DR relied on the orders of authorities below.

20. We have heard the rival submissions and have carefully perused the materials on record. We find force in the argument of the assessee. For AY 2020-21, the assessee is eligible for deduction u/s 80G with the caveat that it fulfills the criteria laid down in the provisions of section 80G as discussed above. The ground is allowed.

21. With respect to ground 1,2 and 3 regarding disallowance of PF/ESIC u/s 36(1)(va), the assessee has contested the disallowance of Rs. 28,41,392/- u/s 36(1)(va) of the Income Tax Act, on the ground that

as the due date of remittance was a public holiday, the assessee Company had remitted the amount on the next day before the due date of filing the return of income and that the amendment brought in by the Finance Act, 2021 with respect to Sec. 36(1)(va) have a prospective effect and no disallowance shall be made for the previous years.

22. We find that this issue of disallowance of PF/ESIC is no more res integra as the quarrel is now settled by the decision of the Hon'ble Supreme Court in favour of the Revenue and against the assessee by the decision in the case of *Checkmate Services [Pvt] Ltd* [supra]. The hon'ble Supreme Court has laid down the law from the day of inception that the payment of employees contribution of PF/ESIC has to be deposited within the due dates as prescribed under the PF/ESIC laws and not before the due date of filing return. In view of the same, these grounds are dismissed.

23. With respect to grounds of disallowance on account of difference of income from books and Form 26AS, the ld AR submitted that this ground was duly raised by the assessee before Ld. CIT(A) who inadvertently has not adjudicated the said grounds and accordingly, it was prayed that this Ground be sent back to the Ld. CIT(A) with a direction to decide the issue on merits.

24. Per contra, the Id DR did not raise any serious objection.

25. We find that the AO, on perusal of the submission of the assessee, noticed that on party wise analysis of the receipts appearing in form 26AS are higher than the income credited to profit and loss account in respect of income booked of M/s Prestige Wines and Spirits Private Limited. The AO, finding no suitable explanation from the assessee, added the difference of Rs. 19,992/- to the taxable income of the assessee. When the assessee went in appeal before the Id. CIT(A), the CIT(A) did not adjudicate the issue.

26. We are of the considered view, in light of the above facts, that the matter of reconciliation of income from books as compared to Form 26 AS be set aside to the file of CIT(A) for fresh adjudication after allowing adequate opportunity of being heard to the assessee. The assessee is also directed to provide necessary information /documents as required by the authorities. Ground is allowed for statistical purpose.

27. In the result, appeals of Revenue in decided as follows:

ITA Nos. 67/DEL/2025 is partly allowed.

ITA Nos. 68/DEL/2025 is partly allowed.

ITA Nos. 69/DEL/2025 is partly allowed.

ITA Nos. 67, 68, 69/DEL/2025
Delhi Duty Free Services
[A.Ys 2017-18, 2018-19 & 2020-21]

Order pronounced in open court on 27.08.2025.

Sd/-

[SATBEER SINGH GODARA]
JUDICIAL MEMBER

Sd/-

[NAVEEN CHANDRA]
ACCOUNTANT MEMBER

Dated : 15th October, 2025.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

ITA Nos. 67, 68, 69/DEL/2025
Delhi Duty Free Services
[A.Ys 2017-18, 2018-19 & 2020-21]

Sl No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft Tribunal Order is placed before the Dictation Member</i>	
3.	<i>Date on which the typed draft Tribunal Order is placed before the other Member</i>	
4.	<i>Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement</i>	
6.	<i>Date on which the signed order comes back to the Sr. P.S./P.S</i>	
7.	<i>Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website</i>	
8.	<i>Date on which the file goes to the Bench Clerk alongwith Tribunal Order</i>	
9.	<i>Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks</i>	
10.	<i>Date on which the file goes to the Supervisor (Judicial)</i>	
11.	<i>The date on which the file goes for xerox</i>	
12.	<i>The date on which the file goes for endorsement</i>	
13.	<i>The date on which the file goes to the Superintendent for checking</i>	
14.	<i>The date on which the file goes to the Assistant Registrar for signature on the Tribunal order</i>	
15.	<i>Date on which the file goes to the dispatch section</i>	
16.	<i>Date of Dispatch of the Order</i>	